

EXHIBIT J

Leslie DeMars CONFIDENTIAL - October 23, 2019

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IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF VERMONT Case No. 5:17-cv-194	
MISTY BLANCHETTE PORTER, M.D., Plaintiff	
vs.	
DARTMOUTH-HITCHCOCK MEDICAL CENTER, DARTMOUTH-HITCHCOCK CLINIC, MARY HITCHCOCK MEMORIAL HOSPITAL, and DARTMOUTH-HITCHCOCK HEALTH, Defendants.	
CONFIDENTIAL	
DEPOSITION OF LESLIE DeMARS taken on behalf of the Plaintiff at Norwich, Vermont, on October 23, 2019, at 9:00 a.m., before Cynthia Foster, Registered Professional Reporter.	
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APPEARANCES:	
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Norwich, Vermont, 05055, on behalf of the Plaintiff, Misty Blanchette Porter, M.D., also present.	
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Boston, Massachusetts, 02199-7610, on behalf of the Defendants, Dartmouth-Hitchcock Medical Center, Dartmouth-Hitchcock Clinic, Mary Hitchcock Memorial Hospital, and Dartmouth-Hitchcock Health.	
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<p style="text-align: right;">129</p> <p>1 you included the Value Institute?</p> <p>2 MR. SCHROEDER: She didn't say Ed Merrens.</p> <p>3 A I didn't say Ed Merrens.</p> <p>4 Q Was he not involved in it?</p> <p>5 A No. He was not.</p> <p>6 Q Who made the decision ultimately?</p> <p>7 MR. SCHROEDER: For what?</p> <p>8 Q To close the REI Division?</p> <p>9 A Again, we were not talking about that.</p> <p>10 Q Well, somebody made a decision to close the REI</p> <p>11 Division and to terminate the employees in that</p> <p>12 division; is that correct?</p> <p>13 A Yes.</p> <p>14 Q Who made that decision?</p> <p>15 A Dr. Merrens.</p> <p>16 Q Okay. Now, prior to getting to that point,</p> <p>17 getting to the point of deciding to close the</p> <p>18 REI Division, who were the individuals who were</p> <p>19 involved in the discussions about the</p> <p>20 possibility of contracting the services to be</p> <p>21 offered by the division?</p> <p>22 A That was me, Heather Gunnell, the Value</p> <p>23 Institute, Daniel Herrick.</p> <p>24 Q Can you explain, please, what role or function</p> <p>25 was performed by the Value Institute in these</p>	<p style="text-align: right;">131</p> <p>1 figuring out a way if there's a way to make the</p> <p>2 REI Division members work cohesively?</p> <p>3 A So the first one was primarily team building.</p> <p>4 Q Yes.</p> <p>5 A The second one was, again, a much longer</p> <p>6 workshop that went into much more depth and more</p> <p>7 preparation of the Value Institute on behalf of</p> <p>8 the Value Institute to look at what was going on</p> <p>9 ahead of that workshop, to evaluate, again, the</p> <p>10 ways of working, the interpersonal</p> <p>11 relationships, and then to devise, to work on</p> <p>12 the problems that they identify and to come up</p> <p>13 with that division or the team with which</p> <p>14 they're working to have a process to move</p> <p>15 forward.</p> <p>16 Q Were the results of the work done by the Value</p> <p>17 Institute conveyed to Daniel Herrick and other</p> <p>18 senior leadership at Dartmouth-Hitchcock?</p> <p>19 A Their recommendations and conclusions were</p> <p>20 conveyed verbally to Daniel Herrick, Heather</p> <p>21 Gunnell, and me at a meeting about a week after</p> <p>22 the workshop.</p> <p>23 Q Who conveyed it?</p> <p>24 A Whether it was Katie Wira or Sam whose last name</p> <p>25 I'm blanking on at the Value Institute, both of</p>
<p style="text-align: right;">130</p> <p>1 discussions?</p> <p>2 A Sure. The Value Institute, we engaged them</p> <p>3 twice, specifically to work with the REI</p> <p>4 Division on ways of working on team building, on</p> <p>5 really effective teamwork and effective</p> <p>6 communication. We had a one-day workshop in the</p> <p>7 fall of 2016 and then it was at least a five-day</p> <p>8 workshop where we had a stand-down of all</p> <p>9 activities in early February, I believe, of</p> <p>10 2017. Their role is to evaluate and make</p> <p>11 recommendations on the way teams are working.</p> <p>12 We engaged them because the division was</p> <p>13 completely fractured, and we wanted to see if</p> <p>14 there was a way of repairing those fractures and</p> <p>15 having a way to move forward to have a</p> <p>16 successful division.</p> <p>17 Q I want to make sure I've got this right.</p> <p>18 The Value Institute's job was to do the</p> <p>19 team building or the team evaluation work to</p> <p>20 figure out is there a way we can get everybody</p> <p>21 working essentially as a team working on the</p> <p>22 same page. Is that accurate?</p> <p>23 MR. SCHROEDER: Mischaracterizes her</p> <p>24 testimony. Two different workshops here.</p> <p>25 Q Okay. So were both workshops designed towards</p>	<p style="text-align: right;">132</p> <p>1 them were there.</p> <p>2 Q One of the two of them were both conveyed the</p> <p>3 conclusions of the Value Institute?</p> <p>4 A Correct.</p> <p>5 Q Let me take a short break.</p> <p>6 (Recess taken 3:18 - 3:30 p.m.)</p> <p>7 Q It was pointed out to me that you and I used a</p> <p>8 term a few moments ago that can be interpreted</p> <p>9 two ways. We talked about "contracting" the REI</p> <p>10 services, and what I understood you to mean was</p> <p>11 reducing or shrinking the size of the services,</p> <p>12 not contracting out those services to a third</p> <p>13 party like IVF Boston. You were referring to a</p> <p>14 shrinkage, right?</p> <p>15 A Correct.</p> <p>16 Q Because the transcript could be read to refer to</p> <p>17 a plan to send the IVF services to Boston or</p> <p>18 some place. That wasn't --</p> <p>19 A No. Limiting.</p> <p>20 Q Okay. Thank you.</p> <p>21 Do you understand that you were involved</p> <p>22 pretty much from the outset in the discussions</p> <p>23 about what to do with the REI Division? Is that</p> <p>24 accurate?</p> <p>25 A Discussions with whom?</p>

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<p style="text-align: right;">133</p> <p>1 Q With the senior leadership at 2 Dartmouth-Hitchcock. 3 A I wouldn't characterize those meetings as 4 discussions. 5 Q How would you characterize them? 6 A I would characterize them as decisions having 7 been made without having discussions having 8 occurred, and my arguments to the contrary were 9 dismissed. Any plans that I had were dismissed, 10 and a process was put in place over which I had 11 absolutely no say. 12 Q Why do you believe that your arguments were 13 dismissed? 14 A Oh, because they were dismissed publicly and 15 condescendingly. 16 Q By whom? 17 A By Ed. 18 Q When you say "publicly," where? 19 A In a meeting of senior leadership. 20 Q Who was there? 21 A Ed, Daniel Herrick, Heather, Joni Spring who was 22 one of the nursing leadership, Maria, John 23 Kacavas, Victoria who's the publicity 24 communications person. Aimee Giglio. 25 MR. SCHROEDER: Be careful whether or not</p>	<p style="text-align: right;">135</p> <p>1 before we go forward, I know for a fact that we 2 have on our privilege log a document that is 3 marked privileged relating to a meeting that 4 John Kacavas attended. I can check it. I'm 5 almost positive that there is a document 6 relating to one of the meetings. I think there 7 were prior meetings that he was not at so those 8 are fair game, but I believe that the document 9 relating to this particular meeting where John 10 Kacavas was and what is stated during that 11 meeting that it is a privileged document, and, 12 therefore, it's a privileged communication. 13 MR. VITT: I'll tell you what. I'll go 14 ahead and ask the questions and -- 15 MR. SCHROEDER: Well, we can go off -- I 16 mean, I would like to check this if we can go 17 off the record for a second. 18 (Discussion off the record) 19 Q Can you give me the range of when the date would 20 have been for this meeting? 21 A It was five or six weeks before we announced the 22 closure of the division. 23 Q What did you understand was the purpose of the 24 meeting? 25 A As I understood it, it was to convey the</p>
<p style="text-align: right;">134</p> <p>1 this was an attorney/client privileged 2 communication. I don't know what meeting you're 3 talking about. You just mentioned that John 4 Kacavas was there. 5 Q What was the purpose of the meeting? 6 A The purpose of the meeting was to -- from my 7 perspective? 8 Q Yes. From your perspective. 9 A The purpose of the meeting was to inform me that 10 the REI Division was going to be closed and to 11 set, to set about a plan for doing that. 12 Q So basically it was a business decision, and you 13 were told what that business decision was, 14 correct? 15 A It was a decision. 16 Q Right. 17 A And I was being told what the decision was. 18 Q Right. So I'm going to ask you what you can 19 recall about what was said and whoever said it 20 you can tell me, and I don't think there's any 21 issue of privilege, and if it comes up we can 22 deal with it then. So where was the meeting? 23 Where did it take place? 24 A Fifth floor, one of the board rooms. 25 MR. SCHROEDER: To be honest with you,</p>	<p style="text-align: right;">136</p> <p>1 decision that the division would be closed and 2 to begin to lay out a plan for doing so. 3 Q All right. So prior to this meeting, had you 4 been given an opportunity to weigh in with your 5 views about what should happen? 6 A No. So I came prepared to that meeting because 7 I thought that's what this meeting would be 8 about would be what should we do with IVF. And 9 not the division. 10 Q All right. So tell me what you did to prepare 11 yourself for what you thought was going to 12 happen at the meeting. 13 A I prepared a list of, again, essential 14 components of REI within the department that did 15 not include IVF. That I wanted to be able to 16 present a plan to close IVF and at a point not 17 too far down the road to be able to reopen it 18 again with a functional team, but at this point 19 because we did not have the nursing support to 20 continue to do IVF, we could not continue to do 21 that. I had a plan for Misty, I had a plan for 22 Albert, I had a plan for David, I had a plan for 23 the others in the division, and it was a 24 stand-down on doing IVF. 25 Q Was your plan reduced to writing?</p>

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<p style="text-align: right;">137</p> <p>1 A Was my plan? No. It was not produced in</p> <p>2 writing.</p> <p>3 Q When I say you showed up with, you had planned</p> <p>4 to make a presentation, correct?</p> <p>5 A Yes.</p> <p>6 Q Okay. Was there a handout?</p> <p>7 A No. I had notes, but --</p> <p>8 Q Okay. That's what I'm trying to figure out,</p> <p>9 whether you had actually gone to the, taken the</p> <p>10 time to write it out.</p> <p>11 A I had notes, yes, but I did not have a Power</p> <p>12 Point presentation or a handout.</p> <p>13 Q Okay. And had you thought about how to go about</p> <p>14 recruiting an adequate nursing staff to be able</p> <p>15 to resume the IVF program?</p> <p>16 A We had worked on that all year actually, and we</p> <p>17 had multiple thoughts on how to recruit an</p> <p>18 adequate nursing staff. One of the outputs from</p> <p>19 the Value Institute was that the nursing</p> <p>20 leadership said that they would not hire another</p> <p>21 nurse into the REI Division unless it were</p> <p>22 completely revamped.</p> <p>23 Q Who in nursing leadership said that?</p> <p>24 A There were two nursing officers who were in</p> <p>25 charge of outpatient. One was Joni Spring. The</p>	<p style="text-align: right;">139</p> <p>1 you.</p> <p>2 A At the point of this meeting, I wanted to keep</p> <p>3 Misty in an ultrasound role that at this point</p> <p>4 she was still on medical leave. It was unclear</p> <p>5 to me how long her recovery was going to take,</p> <p>6 and I wanted to be able to give her as much time</p> <p>7 as she needed to recover and to put her in an</p> <p>8 ultrasound-heavy role that would, we could then</p> <p>9 grow that role or grow her otherwise as her</p> <p>10 recovery allowed.</p> <p>11 Q And what was Albert's role to be?</p> <p>12 A Albert would do the other duties of an REI</p> <p>13 physician until we were able to reinstitute IVF</p> <p>14 services.</p> <p>15 Q And David Seifer?</p> <p>16 A David Seifer, my plan at that point would be at</p> <p>17 the end of the year would be to counsel him out</p> <p>18 of his position.</p> <p>19 Q Essentially tell him it would be better for</p> <p>20 everybody if he found another job?</p> <p>21 A Yes.</p> <p>22 Q I would presume he's heard that speech before.</p> <p>23 Were you able to convey any parts of your</p> <p>24 plan during the course of this meeting?</p> <p>25 A Yes.</p>
<p style="text-align: right;">138</p> <p>1 other one I'm blanking on her name. It was the</p> <p>2 other one.</p> <p>3 Q Okay.</p> <p>4 A But she was basically the Associate Chief</p> <p>5 Nursing Officer in charge of ambulatory nursing</p> <p>6 care.</p> <p>7 Q And she said, essentially, until you get a</p> <p>8 functioning division we're not going to recruit</p> <p>9 any more nurses?</p> <p>10 A Correct.</p> <p>11 Q And how long had that been the stated position</p> <p>12 of the nursing?</p> <p>13 A That was the output from this second Value</p> <p>14 Institute workshop, so that was in mid-February</p> <p>15 of '17.</p> <p>16 Q All right. So you said you had a plan for Misty</p> <p>17 Porter, a plan for Albert Hsu and a plan for</p> <p>18 David Seifer, right?</p> <p>19 A Yes.</p> <p>20 Q What was the plan for Misty Porter?</p> <p>21 A So at this point --</p> <p>22 MR. SCHROEDER: What point are you talking</p> <p>23 about?</p> <p>24 A At the point of this meeting.</p> <p>25 Q That's right. The point of this meeting. Thank</p>	<p style="text-align: right;">140</p> <p>1 Q Tell me how it went.</p> <p>2 A Not well.</p> <p>3 Q Okay.</p> <p>4 A Essentially every single point I brought up was</p> <p>5 dismissed, and I was told that there was not</p> <p>6 going to be any plan, that I was not allowed to</p> <p>7 make any plan.</p> <p>8 Q Who told you that?</p> <p>9 A Ed. That it was my fault.</p> <p>10 Q He said it was your fault?</p> <p>11 A Yes.</p> <p>12 Q Did he explain why?</p> <p>13 A I didn't ask him to.</p> <p>14 Q Well, okay. Let me see if I get this, the</p> <p>15 context right. You've got 6, 7, 8 people</p> <p>16 sitting around the table, right?</p> <p>17 A At least, yes.</p> <p>18 Q And you're there with the understanding that</p> <p>19 you'd have an opportunity to explain your plan</p> <p>20 for a temporarily-reduced-in-scope size of the</p> <p>21 REI Division, correct?</p> <p>22 A That was my understanding.</p> <p>23 Q Your understanding. Okay. And at some point</p> <p>24 you were given an opportunity to speak, correct?</p> <p>25 Sounds like you went through your notes.</p>

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<p style="text-align: right;">145</p> <p>1 that because there was a difficulty recruiting</p> <p>2 nurses that that was a sufficient reason to</p> <p>3 close the REI Division?</p> <p>4 A I apologize. Say it one more time. This is</p> <p>5 such a miserable time in my life.</p> <p>6 Q Sure. That's quite all right.</p> <p>7 So you had this meeting.</p> <p>8 A Yes.</p> <p>9 Q And they say we're going to shut the REI</p> <p>10 Division, we're going to close it down, correct?</p> <p>11 A Yes.</p> <p>12 Q And I asked you what was the public excuse or</p> <p>13 reason that was going to be given for shutting</p> <p>14 down the division. You said well, we've got a</p> <p>15 problem recruiting talented nurses and that's</p> <p>16 the reason. Essentially that's what they said,</p> <p>17 right?</p> <p>18 A They didn't call out nurses specifically. They</p> <p>19 did not want to call out nurses specifically.</p> <p>20 Q Supporting staff.</p> <p>21 A Yes.</p> <p>22 Q Okay. Fine.</p> <p>23 MR. SCHROEDER: Providers is what she said.</p> <p>24 A Providers.</p> <p>25 Q Did you understand providers to include</p>	<p style="text-align: right;">147</p> <p>1 talk about closing the REI division or the</p> <p>2 second meeting where there was talk about how to</p> <p>3 publicly spin this. At either of those two</p> <p>4 meetings, did anyone talk about the effect of</p> <p>5 that decision on women's health and whether</p> <p>6 Dartmouth-Hitchcock had some obligation to meet</p> <p>7 the needs of women in this area?</p> <p>8 A Yes.</p> <p>9 Q Who discussed that?</p> <p>10 A I did. And it was broadly brought up over the</p> <p>11 phone by Chief Justice Broderick who at that</p> <p>12 point was, I don't know, contracted doing</p> <p>13 something, but --</p> <p>14 Q He was participating by phone?</p> <p>15 A He was participating by phone.</p> <p>16 Q What did he say?</p> <p>17 A Well, he brought out the, well, what does this</p> <p>18 mean to, you know, our patients, what does it</p> <p>19 mean to, you know, our catchment area. What's</p> <p>20 going to be the public backlash to this.</p> <p>21 Q What did people say to that?</p> <p>22 A Well, there was only one voice that was talking.</p> <p>23 Q That was you?</p> <p>24 A And that was me.</p> <p>25 Q What did you say?</p>
<p style="text-align: right;">146</p> <p>1 physicians?</p> <p>2 A No. It was nurses, but they did not want to</p> <p>3 specifically say nurses.</p> <p>4 Q What's wrong with saying nurses?</p> <p>5 A The nursing officer did not want it laid at the</p> <p>6 feet of the nurses.</p> <p>7 Q Okay. Did you believe that the problem in</p> <p>8 recruiting nurses to do the work in the REI</p> <p>9 Division was a sufficient or an adequate reason</p> <p>10 to close the REI Division?</p> <p>11 A Thank you. No. No. I finally understand your</p> <p>12 question.</p> <p>13 Q It probably was a bad question before. I'm</p> <p>14 sorry. Okay. Go ahead.</p> <p>15 A Our lack of nurses made it necessary for us to</p> <p>16 stop doing IVF. There was a substantial jump</p> <p>17 from stopping to do IVF and closing the division</p> <p>18 and making that into a business decision. There</p> <p>19 are many things that went into our inability to</p> <p>20 hire nurses, but that was the ultimate final</p> <p>21 push that made us have to stop doing IVF. And</p> <p>22 from there, a decision was made to close. That</p> <p>23 was never my intention.</p> <p>24 Q At either of those meetings, first meeting there</p> <p>25 was discussion where Merrens says we're here to</p>	<p style="text-align: right;">148</p> <p>1 A At that point? I mean, I said that this was a</p> <p>2 service that was a valuable part of the women's</p> <p>3 health services that D-H had been providing for</p> <p>4 the last 25 years and that it continued to be a</p> <p>5 valuable service in our collaboration with UVM.</p> <p>6 You know, we were effectively covering two</p> <p>7 states in expanding our catchment area. That it</p> <p>8 was short-sighted, and, again, to just say that</p> <p>9 this is a business decision is insulting to</p> <p>10 women's health and to women's health care.</p> <p>11 Q Okay. Do you recall whether Heather Gunnell and</p> <p>12 Daniel Herrick said anything at either of those</p> <p>13 meetings in support of closing the REI Division?</p> <p>14 A They did not speak in support. So Heather did</p> <p>15 not speak. Daniel Herrick, again, tried to</p> <p>16 suggest some alternatives to closing the</p> <p>17 division more in favor of let's stop, take a</p> <p>18 pause, and make new plans, and those were, we're</p> <p>19 not going to do that.</p> <p>20 Q I want to make sure that I've got the right</p> <p>21 understanding about certainly that first meeting</p> <p>22 went down. The way you describe it, Ed Merrens</p> <p>23 ran the meeting, said what the decision was</p> <p>24 going to be and everybody else got in line.</p> <p>25 Does that sound right?</p>

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<p style="text-align: right;">149</p> <p>1 A Yes. There was, again, some push-back from</p> <p>2 Maria. Daniel had said well, you know, we do</p> <p>3 have some alternative plans that we could</p> <p>4 discuss, and none of it was entertained.</p> <p>5 Q Do you have any reason to believe that either of</p> <p>6 those meetings were recorded?</p> <p>7 A No.</p> <p>8 Q Was someone taking official or semiofficial</p> <p>9 notes?</p> <p>10 A I don't think so.</p> <p>11 Q Did you see at any point a document, email, a</p> <p>12 memo, you name it, that purports to be a summary</p> <p>13 of what was discussed at either of those</p> <p>14 meetings?</p> <p>15 A No.</p> <p>16 Q You didn't see anything like that?</p> <p>17 A No.</p> <p>18 Q Was John Kacavas at both meetings or just one?</p> <p>19 A I don't know for sure.</p> <p>20 Q Did he say anything to you at those meetings?</p> <p>21 A No.</p> <p>22 Q Was there a discussion about the possibility of</p> <p>23 litigation?</p> <p>24 A No.</p> <p>25 Q Nobody raised the possibility that hey, we fire</p>	<p style="text-align: right;">151</p> <p>1 A I don't remember most of this. Some of this</p> <p>2 meeting I remember crystal clearly. Some of it</p> <p>3 I didn't remember well because it was clearly</p> <p>4 Leslie, this is not your action item. You're</p> <p>5 not going to, you know, I'm done with you.</p> <p>6 Q Was that Ed Merrens essentially, I'm done with</p> <p>7 you?</p> <p>8 A Yeah.</p> <p>9 Q Were you still Chair at the time?</p> <p>10 A Yes.</p> <p>11 Q Did you understand based on what had happened at</p> <p>12 this meeting that your tenure as Chair was</p> <p>13 somewhat tenuous?</p> <p>14 A No. No.</p> <p>15 Q You thought you would continue to be Chair.</p> <p>16 A Yes.</p> <p>17 Q And how did it come about that you ceased to be</p> <p>18 Chair?</p> <p>19 A Ed and I were in a meeting together where we</p> <p>20 were discussing what we had, what I and Heather</p> <p>21 had been doing to try to fill in the service</p> <p>22 gaps, and heal this huge wound in the</p> <p>23 department, and he said I've given you enough</p> <p>24 time, and I said it has been six weeks, and this</p> <p>25 was a bomb that went off in our department. And</p>
<p style="text-align: right;">150</p> <p>1 a bunch of people, we may get sued?</p> <p>2 A No. The discussion was we have to go back and</p> <p>3 look at everyone's contracts.</p> <p>4 Q Why?</p> <p>5 A That was directed to the HR person and to --</p> <p>6 shoot. The other lawyer.</p> <p>7 Q There was another lawyer there besides Kacavas?</p> <p>8 A At one of the meetings, yes. It was the woman</p> <p>9 who's actually --</p> <p>10 Q Kim Troland?</p> <p>11 A Kim Troland. Thank you. My brain doesn't</p> <p>12 remember names very well.</p> <p>13 Q Not a problem.</p> <p>14 A I can see her face.</p> <p>15 Q Was the fact that Misty Porter was on short-term</p> <p>16 disability or part-time disability, was that</p> <p>17 issue brought up?</p> <p>18 A Yes. I think it was brought up as fact that she</p> <p>19 was on disability.</p> <p>20 Q Who brought it up?</p> <p>21 A I don't remember.</p> <p>22 Q Somebody brought up the fact that at the moment</p> <p>23 of that meeting she was on disability.</p> <p>24 A Yes.</p> <p>25 Q Anybody respond to that, do you recall?</p>	<p style="text-align: right;">152</p> <p>1 he said once again, this was your doing. This</p> <p>2 is your fault. You were the one that made this</p> <p>3 decision, and I looked at him and I said I</p> <p>4 certainly did not. And he looked at me and he</p> <p>5 said I don't think we can continue to work</p> <p>6 together anymore.</p> <p>7 Q Was anyone else there besides the two of you?</p> <p>8 A No, but that was it. Like I don't think we can</p> <p>9 either.</p> <p>10 Q How soon after that discussion did you step down</p> <p>11 as Chair?</p> <p>12 A At that meeting he said we'll meet again next</p> <p>13 week and talk about terms of your stepping down.</p> <p>14 What I found out was that, this was on a</p> <p>15 Wednesday, that by two days later, that Friday,</p> <p>16 he had already announced to several other Chairs</p> <p>17 that I was stepping down.</p> <p>18 Q That came as a surprise to you?</p> <p>19 A Yes. I hadn't even had a chance to discuss it</p> <p>20 with my faculty.</p> <p>21 Q How did it come about that you, after you</p> <p>22 stepped down, what position did you hold or what</p> <p>23 were you going to be doing?</p> <p>24 A Well, I stayed on as a GYN oncologist.</p> <p>25 Q Right.</p>

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<p style="text-align: right;">157</p> <p>1 Division?</p> <p>2 A No. She did not. She said it was a business</p> <p>3 decision.</p> <p>4 Q Did she get into a discussion of what would have</p> <p>5 to happen from an HR perspective if the decision</p> <p>6 was made to close the REI division?</p> <p>7 A What she said was this is a business decision to</p> <p>8 close the division. Therefore, there is no job,</p> <p>9 there is no position for these physicians.</p> <p>10 Q She wouldn't know that, would she? I mean, how</p> <p>11 does the --</p> <p>12 MR. SCHROEDER: Objection. Calling for</p> <p>13 speculation as to what she would or would not</p> <p>14 know.</p> <p>15 Q How does the HR have an informed basis for</p> <p>16 deciding the services that are needed, the</p> <p>17 services these physicians are capable of</p> <p>18 performing and whether or not it's a good idea</p> <p>19 to keep them? Is that something you expect HR</p> <p>20 to weigh in on?</p> <p>21 MR. SCHROEDER: Objection.</p> <p>22 Mischaracterizes her testimony. You're also</p> <p>23 asking her to speculate as to what Amy Giglio</p> <p>24 does or does not think.</p> <p>25 A I don't know what Aimee Giglio's decision-making</p>	<p style="text-align: right;">159</p> <p>1 no Bates numbers on those.</p> <p>2 (Exhibit 20 marked for identification)</p> <p>3 Q Show you what's been marked as Exhibit 20. This</p> <p>4 is an email from Heather Gunnell to you and</p> <p>5 Daniel Herrick, correct?</p> <p>6 A Yes.</p> <p>7 Q And it's dated April 19, 2017. Do you believe</p> <p>8 the meetings that you've referenced today that</p> <p>9 we've been talking about for a while took place</p> <p>10 after April 19, 2017?</p> <p>11 A This again was focused on shutting down IVF.</p> <p>12 MR. SCHROEDER: Did you hear the question?</p> <p>13 A I'm sorry.</p> <p>14 MR. SCHROEDER: So answer it again.</p> <p>15 A I'm sorry. I guess I didn't. Would you please</p> <p>16 ask the question again?</p> <p>17 Q Sure.</p> <p>18 A Oh, I know what it -- please ask the question</p> <p>19 again.</p> <p>20 Q Heather Gunnell in this email says I added a</p> <p>21 brief staffing plan for both a complete shutdown</p> <p>22 and a rebuild. My assumption is that MBP --</p> <p>23 that's Dr. Porter -- will be refocused to Gyn</p> <p>24 ultrasound. U/S, right? That's ultrasound?</p> <p>25 A Yes.</p>
<p style="text-align: right;">158</p> <p>1 ability actually is. What she said was because</p> <p>2 this is a business decision to close the</p> <p>3 division, there is no longer a position for REI</p> <p>4 physicians.</p> <p>5 Q Was there a discussion in either of the meetings</p> <p>6 about redeploying Dr. Porter to do ultrasound</p> <p>7 work?</p> <p>8 A That was not discussed at the meeting. That was</p> <p>9 something that I had in the back of my mind</p> <p>10 because, again, what I wanted to try to do was</p> <p>11 to keep Misty employed. So I had a choice of</p> <p>12 could I keep her within the department or could</p> <p>13 I have her be a member of the Department of</p> <p>14 Radiology. So I actually had a conversation</p> <p>15 with Jocelyn Chertoff about potentially having</p> <p>16 Misty move into Radiology.</p> <p>17 Q Was she all right with that?</p> <p>18 A No. She said I have no, I have no position</p> <p>19 available in Radiology. I'm not interested in</p> <p>20 hiring Misty within the department.</p> <p>21 Q Okay. Exhibit 20 will be a document that was</p> <p>22 marked as Exhibit 17 during the Merrens</p> <p>23 deposition. Numbers are 2582 through 2583, but</p> <p>24 there are a series of documents attached to it</p> <p>25 that were produced in native format so there are</p>	<p style="text-align: right;">160</p> <p>1 Q Okay. Now --</p> <p>2 A The complete shutdown is actually shutting down</p> <p>3 the IVF program, not shutting down the division.</p> <p>4 Q That was your understanding as of this date?</p> <p>5 A Correct.</p> <p>6 Q And this assumption of having Dr. Porter</p> <p>7 refocused to begin ultrasound, that was</p> <p>8 something you had considered as well, right?</p> <p>9 A Yes. That was, again, because of the</p> <p>10 recommendations that were made by the Value</p> <p>11 Institute that we needed a shutdown and rebuild</p> <p>12 of the IVF program, and that one of the issues</p> <p>13 was in Misty's leadership of that program. I</p> <p>14 wanted to keep Misty in the department. I</p> <p>15 wanted her to be able to concentrate on</p> <p>16 something that she was really great at, and then</p> <p>17 as she recovered to then work with her on what</p> <p>18 we could do with the IVF program as it existed</p> <p>19 at that point in the future. So again, this</p> <p>20 was, I wanted to keep Misty.</p> <p>21 Q You said that Aimee Giglio mentioned apparently</p> <p>22 more than once in these meetings that it was a</p> <p>23 business decision to shut it down, right?</p> <p>24 A Yes.</p> <p>25 Q And you said no, it's a personal decision,</p>

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